

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

LORI HALL, :
Plaintiff, :
: :
v. : C.A. No. 18-355WES
: :
CARLOS DEL TORO, SECRETARY, :
U.S. DEPARTMENT OF THE NAVY, :
Defendant. :
:

REPORT AND RECOMMENDATION

PATRICIA A. SULLIVAN, United States Magistrate Judge.

On March 7, 2022, Plaintiff filed a notice of appeal. ECF No. 49. After filing her notice of appeal, Plaintiff filed a motion to proceed in forma pauperis (“IFP”) in the Court of Appeals. Hall v. Del Toro, No. 22-1165 (1st Cir. Mar. 31, 2022). The First Circuit denied the motion “without prejudice to filing a compliant [with Fed. R. App. P. 24(a)] motion and financial affidavit in the district court” and explicitly ordered Plaintiff to file “a fully completed Form 4, financial affidavit,” a blank copy of which it enclosed with the order. Hall, No. 22-165 (1st Cir. Apr. 5, 2022) (emphasis in original). Between April 11-12, 2022, Plaintiff sent emails to the District Court; one of these was linked to a PDF file, of which five pages appear to be Plaintiff’s request to proceed IFP on appeal. ECF No. 52 at 2-3. This was docketed as an IFP motion and was referred to me for determination. ECF No. 53. Because I find that it should be denied without prejudice, I have dealt with it by report and recommendation.

Plaintiff’s IFP motion uses a form for a state court appeal in Maryland and therefore does not comply either with Fed. R. App. 24(a)(1)(A) or with the First Circuit’s directive to file a “compliant request” through the filing of “a fully completed Form 4, financial affidavit.” Hall, No. 22-1165 (1st Cir. Apr. 5, 2022) (emphasis in original). Further, Plaintiff’s appeal is without

merit and therefore cannot meet the 28 U.S.C. § 1915(a)(3) good faith requirement, in that her stated entitlement to redress and the issues to be presented on appeal appear to relate solely to her pending complaint of judicial misconduct. In addition, the Text Order of February 18, 2022, from which the appeal seemingly was taken did not dismiss Plaintiff's case; it was an interlocutory order and was entered by a Magistrate Judge. Therefore, I recommend that the motion to proceed IFP on appeal be denied without prejudice.

Any objection to this report and recommendation must be specific and must be served and filed with the Clerk of the Court within fourteen (14) days of its receipt. See Fed. R. Civ. P. 72(b)(2); DRI LR Cv 72(d). Failure to file specific objections in a timely manner constitutes waiver of the right to review by the district judge and the right to appeal the Court's decision. See United States v. Lugo Guerrero, 524 F.3d 5, 14 (1st Cir. 2008); Park Motor Mart, Inc. v. Ford Motor Co., 616 F.2d 603, 605 (1st Cir. 1980).

/s/ Patricia A. Sullivan
PATRICIA A. SULLIVAN
United States Magistrate Judge
April 25, 2022